

01-04-01

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Patent  
Attorney Docket: 260/056

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 260/056  
 First Named Inventor: Jeff Nordstrom  
 Prior Application Information:  
 Serial No. 08/948,958  
 Examiner: Yucl, I.  
 Art Unit: 1636

BOX PATENT APPLICATION  
 Commissioner for Patents  
 Washington, D. C. 20231

## FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation      ☐ divisional      ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 08/948,958 filed on October 10, 1997, which relates to Serial No. 60/028,687 filed October 18, 1996.

**Jeff Nordstrom, Bruce Freimark, and Deepa Deshpande, entitled:**

**GENE EXPRESSION AND DELIVERY SYSTEMS AND USES**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**I. APPLICATION ELEMENTS ENCLOSED**

78 Page(s) of Written Description  
8 Page(s) of Claims  
1 Page(s) of Abstract  
16 Sheet(s) of Drawings      ☐ formal      ☒ informal  
3 Page(s) of ☐ Declaration or ☒ Declaration and Power of Attorney  
☒ Copy from prior application [37 CFR §1.63(d)]  
☐ Newly executed

CERTIFICATE OF MAILING  
 (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EL607740780US

Express Mail Label No.

January 03, 2001

Date of Deposit

Melody K. Gutierrez  
 Name of Person Mailing Paper

[Signature]  
 Signature of Person Mailing Paper

jc986 U.S. PTO  
 01/03/01

00754014-010301

jc918 U.S. pro  
 09/754014  
 01/03/01

- ☐ Assignment papers (cover sheet and documents(s))
- ☐ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☐ A Verified Statement to establish small entity under 37 CFR §§ 1.9 and 1.27: ☐ Is attached. ☐ Has been filed in the prior application and such status is still proper and desired. [37 CFR § 1.28(a)]

**II. FEE CALCULATION**

<b>BASIC FILING FEE:</b>					<b>\$710.00</b>
Total Claims	-	20	=	0	x \$18.00 \$0.00
Independent Claims	-	3	=	0	x \$80.00 \$0.00
Multiple Dependent Claims	\$270	(if applicable)		<input type="checkbox"/>	\$0.00
<b>TOTAL OF ABOVE CALCULATIONS</b>					<b>\$710.00</b>
Reduction by ½ for Filing by Small Entity. Note 37 CFR §§ 1.9, 1.27, 1.28. If applicable, Verified Statement must be attached.					<input type="checkbox"/> \$0.00
Misc. Filing Fees (Recordation of Assignment)					\$0.00
<b>TOTAL FEES DUE HERewith</b>					<b>\$710.00</b>

**III. PRIORITY - 35 USC § 119**

- ☐ Priority of application Serial No. \_\_\_\_\_ filed on \_\_\_\_\_ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. \_\_\_\_\_ on \_\_\_\_\_.
- ☐ The certified copy will follow.

**IV. AMENDMENTS**

- ☐ Cancel in this application original Claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

**V. RELATE BACK - 35 USC § 120**☐ Relate back information included in preliminary amendment or specification.☒ Please amend the specification as follows:

This application relates to U.S. patent application Serial No. 08/948,958 filed on October 10, 1997 (Lyon & Lyon Docket No. 226/284), which relates to Serial No. 60/028,687 filed October 18, 1996 (Lyon & Lyon Docket No. 221/231), which are entitled "GENE EXPRESSION AND DELIVERY SYSTEMS AND USES" by Nordstrom et al. which are incorporated herein by reference in their entirety, including any drawings.

☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:

☒ the same.

☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

[Name(s) of inventor(s) to be deleted]

**VI. FEE PAYMENT BEING MADE AT THIS TIME**

☒ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

☐ Attached.

☐ Filing fees. —

☐ Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)] —

☐ Petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached. —  
[\$130.00; 37 CFR §§ 1.47 and 1.17(h)]

☐ Petition fee to Suspend Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently.) —  
[\$130.00; 37 CFR §§ 1.103 and 1.17(i)]

☐ For processing an application with a specification in a non-English language. —  
[\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)]

☐ Processing and retention fee. —

[\$130.00; 37 CFR §§ 1.53(f) and 1.21(l)]

**Total Fees Enclosed** —

**VII. METHOD OF PAYMENT OF FEES**

☐ Attached is a check in the amount of \_\_\_\_.

☐ Charge Lyon & Lyon's Deposit Account No. 12-2475 in the amount of \_\_\_\_.

**VIII. AUTHORIZATION TO CHARGE ADDITIONAL FEES**

The Commissioner is hereby authorized to credit Lyon & Lyon's Deposit Account No. **12-2475** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **12-2475**:

- ☐ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☐ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.18 (Issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

**IX. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS**

- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on \_\_\_\_\_ in prior application Serial No. \_\_\_\_\_.
- ☐ A new power has been executed and is attached.

Please send all correspondence to Customer Number 22249:



**22249**

PATENT TRADEMARK OFFICE

LYON & LYON LLP  
Suite 4700  
633 W. Fifth Street  
Los Angeles, CA 90071

Please direct all inquiries to Michael J. Wise, at (213) 489-1600.

**X. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION**

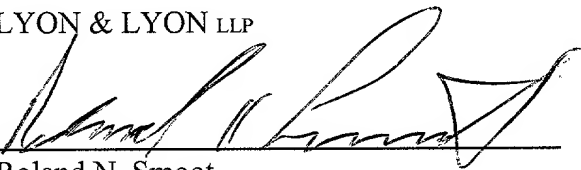
- ☒ A petition and fee has been filed to extend the term in the pending **prior** application until January 3, 2001. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

**XI. ABANDONMENT OF PRIOR APPLICATION**

- ☒ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,

LYON & LYON LLP

By:   
Roland N. Smoot  
Reg. No. 18,718

Dated: January 3, 2001



**22249**

PATENT TRADEMARK OFFICE

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Enclosures

\_\_\_\_\_  
Name of Assignee

\_\_\_\_\_  
Address of Assignee

\_\_\_\_\_  
Title of person authorized to sign on behalf of assignee

Assignment recorded in PTO on \_\_\_\_\_, Reel \_\_\_\_\_, Frame \_\_\_\_\_